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 14 **UNITED STATES DISTRICT COURT**  
 15 **NORTHERN DISTRICT OF CALIFORNIA**  
 16 **SAN FRANCISCO DIVISION**  
 17

18 THE PROCTER & GAMBLE COMPANY, )  
 19 Plaintiff, )  
 20 v. )  
 21 KRAFT FOODS GLOBAL, INC., )  
 22 Defendant. )

Case No.: C07-04413 PJH

**Honorable Phyllis J. Hamilton**

**DECLARATION OF GREG HUNTINGTON IN SUPPORT OF THE PROCTER & GAMBLE COMPANY'S MOTION FOR A PRELIMINARY INJUNCTION**

**Date: October 24, 2007**  
**Time: 9:00 a.m.**  
**Court: Courtroom 3, 17<sup>th</sup> Floor**

REY LLP

28 **DECLARATION OF GREG HUNTINGTON IN**  
**SUPPORT OF MOTION FOR A PRELIMINARY**  
**INJUNCTION**  
**CASE NO. C07-04413 PJH**

1 I, Greg Huntington, hereby declare:

2 1. I have been an employee of The Procter and Gamble Company ("P&G") since June  
3 1984. Except as stated herein, the matters stated below are of my personal knowledge. If called as a  
4 witness, I could and would testify competently thereto.

5 2. I graduated in June 1984 from University of Cincinnati with a bachelors degree in  
6 chemical engineering. I am Associate Director of Research & Development for P&G's coffee  
7 category and have been since October 2006. My responsibilities include helping to develop and lead  
8 new product and package initiatives, manage R&D resources for developing those projects, and  
9 envisioning new opportunities for future development of the business and R&D organization. I also  
10 oversee the current business market activity, including monitoring consumer comments, monitoring  
11 competitors' products, and staying aware of relevant trends that impact the category. As Associate  
12 Director of R&D, I am familiar with P&G's resource allocation for the project to develop the  
13 "AromaSeal" plastic container technology that is described in U.S. Patent No. 7,169,418 ("the '418  
14 Patent").

15 3. P&G invested approximately five years of effort and about \$5 million in research &  
16 development costs to develop the AromaSeal container technology. In summer of 2003, P&G began  
17 converting its entire line of metal-can roast and ground coffee production to its new plastic canister  
18 design. This effort took several months to implement and cost P&G at least \$30 million. P&G  
19 advertised and continues to advertise the advantages of the AromaSeal canister, focusing on the  
20 improved aroma and freshness offered by the combination of features including a peel-off seal, flavor-  
21 protecting air valve, and tight-fitting lid. P&G's ads also highlighted the easy-to-grip handle of the  
22 new Folgers plastic container.

23 4. In late June 2007, one of my employees responsible for competitive product monitoring  
24 made me aware that Kraft was selling roast and ground coffee in a 39-ounce plastic canister. The  
25 plastic canister had an integral handle, one-way valve, flexible seal, snap-on overcap and other features  
26 described in P&G's patent. The exact timing of Kraft's introduction of the product is unclear. When  
27

1 we found the Kraft's new plastic container on store shelves, my group was not aware of any  
2 announcements Kraft had made regarding the container.

3 5. P&G's introduction of its AromaSeal canister was recognized by the industry as a  
4 revolution in coffee packaging design. The technology received several honors and awards from the  
5 professional packaging community and from an important consumer advocacy group—the Arthritis  
6 Foundation—because of its superior ergonomic design. Dupont awarded P&G the Dupont Award for  
7 Innovation in Packaging. Food and Drug Packaging magazine named P&G's design the "Package of  
8 the Year." The Institute of Packaging Professionals gave P&G its "Ameristar Award" and recognized  
9 that P&G's technology was "as dramatic a move" in the industry as when "glass was replaced by  
10 plastic 20 years ago." True and correct copies of these awards are attached to this declaration as  
11 Exhibits 1-4.

12 6. I have been involved in packaging design for other consumer products throughout my  
13 career at P&G beginning in 1984. I have never seen the level of professional recognition that the  
14 AromaSeal canister received in any other product area. The fact that the recognition was received for  
15 coffee—a very mature product category—makes that recognition even more impressive. When a  
16 product, here roast and ground coffee, has been on the market for a very long time, innovators have  
17 had ample time to make incremental improvements to that product. Making a dramatic change to a  
18 product that many have come to regard as a commodity makes P&G's innovation especially  
19 significant. By introducing a similar version of P&G's plastic canister, Kraft is taking advantage of an  
20 opportunity created by P&G that is unlikely to be repeated in the near future. It is hard to predict when  
21 or whether P&G or anyone else in this market will achieve another breakthrough technological  
22 improvement to roast and ground coffee.

23 7. As Associate Director of R&D, I have supervised consumer research to determine how  
24 consumers perceive the AromaSeal canister. That research shows that the AromaSeal canister  
25 provides strong delivery of important features which include its ease of handling, ease of reclosing,  
26 and the confidence it assures the consumer that the coffee is going to be kept fresh throughout its use.  
27 By offering consumers a plastic canister that has many of the same advantages as the AromaSeal

1 canister, Kraft will erode areas of superiority that P&G has created using its patented technology  
2 among consumers over the past four years.

3 8. The AromaSeal container also received considerable publicity in the news. One writer  
4 recognized that a significant benefit of the AromaSeal container is its ability to repeatedly serve  
5 consumers by storing food and other items long after it has served its purpose in storing coffee. The  
6 article was entitled "AGAIN AND AGAIN" and was published by New Products Magazine in August  
7 2004. It used the Folgers AromaSeal container as an example of a re-usable package that can  
8 "establish a lasting memory of brands in households." Kraft's introduction of its 39-ounce container  
9 for Maxwell House coffee will compete with Folgers' AromaSeal container in serving to reinforce  
10 Kraft's and P&G's respective brands. An excerpt of the article is attached as attached as Exhibit 5 to  
11 this declaration.

12 I declare under penalty of perjury under the laws of the United States of America that the  
13 foregoing is true and correct.

14 Executed this 13<sup>th</sup> day of September, 2007, at Cincinnati, Ohio.

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Greg Huntington

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